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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,940	01/17/2001	Brian Thornton	BT5302	6173

7590

12/12/2006

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EXAMINER
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GANEY, STEVEN J

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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*In re* Application of:  
THORNTON, BRIAN

Serial No.: 09/761,940

Filed: Jan. 17, 2001

Docket: BT5302

Title: LAWN CHEMICAL APPLICATION  
SYSTEM

:  
:  
:  
: DECISION ON PETITION TO  
: ENTER AMENDMENT AFTER  
: FINAL  
:

This is a decision on the petition filed on August 11, 2004 to enter the amendment after final under 37 CFR 1.116.

The petition is **GRANTED**.

In the petition the applicant requested a review of the Advisory Action issued by the examiner on July 22, 2004. In the Advisory Action, the examiner refused to enter the amendment after final because the newly presented claim 21 would require additional consideration. The petitioner stated that the newly presented claim 21 was same as the allowed dependent claim 7. All limitations in the preceding claims 1, 5 and 6 were included in the new independent claim 21. There was no new issue involved. The petitioner requested that the amendment after final be entered and a Notice of Allowability be issued.

The record shows that:

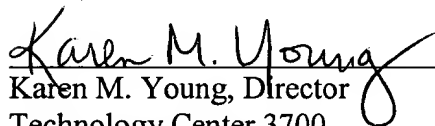
- 1) On Feb. 11, 2004, the examiner issued a final rejection. The examiner finally rejected claims 1-6, 8 and 9 and allowed claims 7, 10 and 16-18.
- 2) On Jun. 7, 2004, the applicant filed an amendment after final under 37 CFR 1.116 which rewrote allowable dependent claim 7 in independent form as new claim 21 and canceled all other rejected claims 1-15 and 19-20 with remaining allowable claims 16-18.
- 3) Subsequently, the examiner issued an Advisory Action on July 22, 2004 stating that the newly presented independent claim 21 would require additional consideration.
- 4) On Aug. 11, 2004, the applicant filed the present petition to request entry of amendment after final and issuance of Notice of Allowability. The applicant argued that under the

amendment after final merely canceling all rejected claims and placing the application in condition for allowance.

In order to determine whether or not that new independent claim 21 raises new issue, a comparison of the new claim 21 and the previous indicated allowable dependent claim 7 must be made. The new claim 21 does appear to include all limitations in the previous indicated allowable dependent claim 7 and all limitations in the preceding claims 1, 5 and 6. Therefore, new independent 21 could not have raised new issue that the examiner did not consider before. The amendment after final merely cancels all rejected claims and places the application in condition for allowance and should have been entered. The petitioner request that the amendment after final be entered and a Notice of Allowability be issued should be granted.

Accordingly, the holding of abandonment is vacated and the amendment after final filed on June 7, 2004 will be entered.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

  
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Karen M. Young, Director  
Technology Center 3700